IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.2 OF 2007
IN
CRIMINAL APPEAL NO.156 OF 2007
(By original Accused No.2)

WITH
CONFIRMATION CASE NO.2 OF 2007

Sunil Ramashray Yadav
Age 20 years,
R/o Waliv, Near Marathi School,
Taluka Vasai, District Thane
(Appellant in judicial custody
-Thane Jail) .. Applicant

V/s

State of Maharashtra .. Respondent
.....

Mr.S.N.Raj with Mr.S.L.Shukla for the Applicant.

Mr.S.R.Borulkar, Public Prosecutor with Mr.A.R.Patil (APP) for the State.

Mr.Ramakant Patil, Sr.Counsel with Mr.Shivraj Patil for Accused - Dilip Tiwari.

Mr.Sandesh D.Patil for Accused - Manoj Tulsi Paswan.

CORAM : DR.S.RADHAKRISHNAN, &
SMT.R.S.DALVI, JJ.

DATE : 1st November, 2007.

P.C.:

1. Heard the lerned Counsel for the Applicant Accused, the learned Public Prosecutor for the State and the learned Counsel for the other Accused.

2. By this application the Applicant is seeking to adduce additional evidence to bring on record the dying

declaration of Prabhu made before Dr.S.S.Anakal, which was alleged to be suppressed by the Prosecution.

3. The learned Public Prosecutor and the other learned Counsel appearing for the Accused - Dilip & Manoj, point out that the said declaration was not suppressed by the Prosecution and a copy was furnished to all the accused during trial. It was also pointed out that Dr.Anakal was examined as a witness and no question was put with regard to the above dying declaration by the learned Advocate for the Accused Sunil before the trial Court, to bring the same on record.

4. The learned Counsel for the Accused Dilip & Manoj strongly oppose the above application, as the same would cause serious prejudice to their clients.

5. Having regard to the aforesaid facts and circumstances, we are not inclined to exercise our discretion in favour of the Applicant, and hence the Application stands dismissed.

(SMT.R.S.DALVI,J.) **(DR.S.RADHAKRISHNAN, J.)**